

CHAPTER 5.12

PHYSICAL PLANNING AND DEVELOPMENT ACT

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• Act • Subsidiary Legislation •

ACT

(Act 29 of 2001 and 3 of 2005)

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CHAPTER 5.12 PHYSICAL PLANNING AND DEVELOPMENT ACT

AN ACT to make provision for the development of land, the assessment of the environmental impacts of development, the grant of permission to develop land and for other powers to regulate the use of land, and for related matters.

Commencement [1 July 2003]

PRELIMINARY

1. Short title

This Act may be cited as the Physical Planning and Development Act.

2. Interpretation

(1) In this Act—

“**advertisement**” includes—

- (a) any word, letter, model, sign, placard, banner, board, notice, awning, blind, balloon, device or representation, whether illuminated or not, in the nature of or employed wholly or in part for the purposes of advertisement, announcement or direction, or calling attention to any person, matter, object or event excluding any such thing employed wholly as a memorial; and
- (b) any hoarding, billboard, wall, fence, or similar structure or apparatus used or adapted for use for the display of advertisements;

“**Advisory Committee**” means a Physical Planning and Development Advisory Committee established under section 7;

“**agriculture**”—

- (a) includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock for meat, wool, skins or fur, or for the purpose of their use in the farming of land, the use of land as grazing land, market gardens and nursery grounds;
- (b) but does not include the use of land including land below the low water mark for fish farming;

“**Appeals Tribunal**” means the Physical Planning and Development Appeals Tribunal established by section 8;

“**boundaries of a road**” means the boundary of the land belonging to the road;

“**building**” includes any structure or erection of whatever material and in whatever manner constructed or any part of a building, and where the context so permits, includes the land on, in or under which the building is situated;

“**building operations**” includes demolition works, rebuilding operations, structural alterations or other additions to a building, and any road or drainage works preliminary or incidental to the erection of buildings;

“**development**” in relation to any land means the carrying out of building, engineering, mining or other operations in, on, over or under any land, the making of any material change in the use of any land or buildings, or the subdivision of any land, and “develops” and “developer” shall be construed accordingly;

“**dwelling unit**” means a building or part of a building used or intended to be used for human habitation providing therein living, sleeping, eating, food-preparation and sanitary facilities for one household, with or without other essential facilities shared with other dwelling units;

“**engineering operations**” include the carrying out of any works for the installation of any sewers, water mains, pipes, cables or other apparatus, the laying out, construction and maintenance of roads, drains, culverts, bridges and retention

structures, the preparation of land for carrying out any development, the clearing and grubbing of land, earthworks, dredging, land filling and land reclamation;

"forest" means an extensive tract of land covered with trees and undergrowth;

"forestry" means the science and art of forming and cultivating forests;

"Head of the Physical Planning and Development Division" means—

- (a) the person appointed as such by the Public Service Commission;
- (b) a person appointed by the Public Service Commission to an office bearing a designation other than "Head, Physical Planning and Development Division" but performing the same functions as the Head of the Physical Planning and Development Division;

"land" means incorporeal as well as corporeal hereditaments of every tenure or description, and any interest therein, and also an undivided share in land, and includes land covered with water and land underlying the sea surrounding the coast within the limits of the territorial waters of Saint Lucia;

"Land Acquisition Act" means the Land Acquisition Act;

"Land Registrar" means the Land Registrar appointed under the Land Registration Act;

"local authority" means any local government body which is established by or under the Constitution or laws in force in Saint Lucia;

"mining operations" means the carrying out in relation to any mineral or substance including oil and geothermal energy in or under land of any activity with a view to searching for, removing by underground or surface working, carrying away, treating or converting that mineral, and includes the removal of beach sand, quarrying, drilling and boring operations;

"Minister" means the Minister with responsibility for planning and development;

"occupier" in relation to any building or land includes a caretaker, contractor or other person authorised to undertake or engaged in undertaking any works in relation to the said building or land;

"owner" in relation to any building or land means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the right of ownership of the building or land, whether in possession or reversion, and includes also a person holding or entitled to the rents and profits of the building or land under lease or agreement;

"person" includes a natural person, a body corporate or an unincorporated body;

"physical plan" means a plan showing the manner in which land may be used whether by the carrying out of development or otherwise and the stages by which such development may be carried out;

"Physical Planning and Development Division" means the Physical Planning Division of the Ministry with responsibility for planning and development;

"port" means the harbour of Castries, an airport or a seaport under the Saint Lucia Air and Sea Ports Authority Act, or any other port declared to be such under section 12 of the Customs (Control and Management) Act;

"referral agencies" means the governmental and non-governmental agencies to which applications for permission to develop land are routinely referred for technical advice;

"Regulations" means regulations made under this Act;

"road" means road as defined under the Motor Vehicles and Road Traffic Act;

“single-family dwelling house” means a building used or intended to be used solely as a separate dwelling unit without any essential facility shared with another dwelling unit;

“statutory undertaker” means any authority, company or person empowered by any act to execute or construct authorised works or to carry into effect the purposes of that Act;

“subdivision” in relation to land means the division of any land registered as one parcel into 2 or more parts, by way of vesting order, partition order, transfer, agreement or other instrument, for the purposes of succession, sale, gift, lease, mortgage or any other purpose, whether or not the division involves building, engineering, mining or other operations on over or under or a material change in the use of any parcel of land and whether or not any engineering or other operations are necessary or expedient for the purpose of laying the land out in the manner in which it is being divided.

(2) In this Act a reference to an environmental impact assessment is a reference to a process that—

- (a) determines the potential impacts, and the degree of such impacts, of a proposed undertaking on the environment; or
- (b) identifies the measures to be established to mitigate against any potential adverse impacts that might occur as a result of the proposed undertaking.

(3) In this Act a reference to environmental impact statement is a reference to the report produced as an output of an environmental impact assessment and shall include—

- (a) a description of the proposed undertaking;
- (b) the terms of reference that informed the preparation and details of the environmental impact statement;
- (c) a description of the potentially affected environment including specific information necessary for the identification and assessment of the potential environmental effects of the proposed undertaking;
- (d) a description of the practical alternatives to the project;
- (e) an assessment of the potential impacts of the proposed undertaking and the alternatives on the environment. This would include direct, indirect, cumulative, short, medium, and long term effects;
- (f) identification and description of proposed measures to mitigate impacts of the proposed undertaking and alternatives along with an assessment of those mitigative measures;
- (g) an indication of the gaps or absences in knowledge and uncertainties which may be encountered in compiling the required information;
- (h) an indication of whether the environment of any other area beyond the impact area as determined initially is likely to be affected by the proposal or its alternative;
- (i) the most desirable course of action based on the findings and the exploration and weighing of alternatives;
- (j) an executive summary of the findings, and recommendations of the environmental impact assessment;
- (k) a compilation of references along with base data, studies, and ancillary materials that informed the environmental impact assessment’s process, findings, and recommendations.

3. Objects and purposes of this Act

(1) The objects and purposes of this Act are to—

- (a) ensure that appropriate and sustainable use is made of all publicly-owned and privately-owned land in Saint Lucia in the public interest;
- (b) maintain and improve the quality of the physical environment in Saint Lucia, including its amenity;
- (c) provide for the orderly sub-division of land and the provision of infrastructure and services in relation thereto;
- (d) maintain and improve the standard of building construction so as to secure human health and safety;
- (e) protect and conserve the natural and cultural heritage of Saint Lucia.

(2) This Act shall receive such purposive and liberal construction and interpretation as best ensures the attainment of its objects and purposes.

PART 1 ADMINISTRATION

4. Duties of the Minister

The Minister shall secure consistency and continuity in the administration of this Act in accordance with the objects and purposes set out in section 3.

5. Head of the Physical Planning and Development Division

(1) Subject to this Act, the Head of the Physical Planning and Development Division shall be responsible for carrying out the statutory duties and exercising the statutory powers created by this Act and any statutory instrument made hereunder and shall be answerable therefor to the Minister.

(2) The Head of the Physical Planning and Development Division shall sign and issue all notices granting or refusing permission for the development of land, enforcement notices, stop notices and other documents authorised to be issued under the provisions of this Act.

(3) Where by this Act or any statutory instrument made hereunder the Head of the Physical Planning and Development Division is required or permitted or otherwise authorised to perform any function, that function may be performed by any other person who is authorised by the Head of the Physical Planning and Development Division in writing to perform those functions.

6. Coordination with referral agencies

(1) The Head of the Physical Planning and Development Division shall, not later than 3 months after this Act comes into force, after consultation with referral agencies, formulate and submit for the approval of Cabinet an administrative scheme for coordination between the Physical Planning and Development Division and the referral agencies in respect of the expeditious processing of applications.

(2) An administrative scheme approved by Cabinet under subsection (1) may be revoked or altered by a revised scheme prepared by the Head of the Physical Planning and Development Division, after consultation with the referral agencies, and submitted to and approved by Cabinet.

7. Advisory Committees

(1) For the avoidance of doubt it is hereby declared that the Minister may establish in any part of Saint Lucia such branch offices of the Physical Planning and Development Division of the Ministry as the Minister considers necessary or convenient for the administration of this Act.

(2) Where any of the functions of the Head of the Physical Planning and Development Division under this Act are delegated to a branch office of the Physical

Planning and Development Division in any part of Saint Lucia, including a branch office situated in the City of Castries, the Minister shall appoint a Physical Planning and Development Advisory Committee for the area to be served by that branch office.

(3) An Advisory Committee appointed under subsection (2) shall consist of not less than 3 or more than 5 persons, who are involved in local government, community-based and other non-governmental organizations, and the business community in the part of Saint Lucia to which its advisory functions relate.

(4) A person appointed under this section shall serve for a period not exceeding 3 years and shall be eligible for reappointment.

(5) The Advisory Committee for any part of Saint Lucia shall advise the branch office in that area on—

- (a) any physical plan for that part of Saint Lucia;
- (b) any application for permission to carry out development in that part of Saint Lucia that belongs to a class of applications prescribed by the Minister by order published in the Gazette as applications to be determined by a branch office on behalf of the Head of the Physical Planning and Development Division; and
- (c) any application for development or other matter related to that part of Saint Lucia on which the Minister or the Head of the Physical Planning and Development Division or the branch office may seek its advice, whether under section 23(2) or not.

8. Appeals Tribunal

(1) There is hereby established a body to be known as the Physical Planning and Development Appeals Tribunal.

(2) The constitution and procedure of the Appeals Tribunal shall be in accordance with Schedule 1.

(3) The Appeals Tribunal shall, in addition to any other powers conferred upon it under this Act, have the power to determine compensation in accordance with section 44(4).

9. Limitation of personal liability

The Minister, the Head of the Physical Planning and Development Division or any person acting under the authority of the Minister or the Head of the Physical Planning and Development Division, and any person who is a member of an Advisory Committee or the Appeals Tribunal, shall not be liable in any court for or in respect of any act or matter done, or omitted to be done, in good faith in the exercise or purported exercise of any function or power conferred by this Act.

PART 2 PHYSICAL PLANNING

10. Duty to prepare physical plans

(1) The Head of the Physical Planning and Development Division—

- (a) may at any time; or
- (b) if required to do so by the Minister shall,
prepare a physical plan for Saint Lucia as a whole or for any specified part of Saint Lucia.

(2) Where a physical plan has been prepared for Saint Lucia as a whole, a physical plan prepared for any part of Saint Lucia shall conform to the prescriptions of that plan, as revised from time to time.

11. Contents of physical plans

(1) A physical plan prepared under this Act shall include such maps and descriptive matter including written statements as may be necessary to illustrate the proposals made therein with such degree of detail as may be appropriate to Saint Lucia as a whole or the part of Saint Lucia to which the plan relates.

(2) A physical plan may—

- (a) allocate land for conservation and for use for agricultural, residential, industrial, commercial, touristic, institutional, recreational or other purposes specified in the plan;
- (b) make provision for the development of infrastructure, public buildings, open spaces and other public sector investment works;
- (c) provide for the layout and design of development schemes in whole or in part;
- (d) state the policies, proposals and programmes contained in the development strategy; and
- (e) prescribe for any of the matters set out in Schedule 2.

12. Preparation of physical plans

(1) In the course of preparation of a draft physical plan the Head of the Physical Planning and Development Division shall—

- (a) take reasonable steps to consult with any person with an interest in the matters for which proposals may be made in the plan, including but not limited to the management of water and other natural resources, Crown lands, the natural and cultural heritage, environmental protection, agriculture, industry, tourism, commerce, urban development and transportation; and
- (b) take into account the national development strategy in effect for Saint Lucia.

(2) Before finalising the contents of a draft physical plan the Head of the Physical Planning and Development Division shall take reasonable steps to ensure that—

- (a) adequate publicity is given in the area to which the plan relates to the matters concerning which proposals will be made in the plan; and
- (b) persons who may wish to make representations with respect to those matters are invited and given an adequate opportunity to make representations on those matters.

(3) In any case where a physical plan is concerned wholly or in part with an area governed by a local authority, the Head of the Physical Planning and Development Division shall, before submitting the draft plan to Cabinet for approval, furnish a copy of the draft plan to that local authority for their consideration; and, if the local authority wishes to make any objections or representations in respect of the draft plan, they shall submit the same to the Head of the Physical Planning and Development Division in the time and manner prescribed by the Head of the Physical Planning and Development Division.

13. Approval of physical plans

(1) When a draft physical plan has been prepared, the Head of the Physical Planning and Development Division shall submit a copy to the Minister and shall make copies available for public inspection at such places as the Minister considers appropriate for bringing it to the attention of persons who are likely to be affected, directly or indirectly, by the proposals in the plan.

(2) The Head of the Physical Planning and Development Division shall give notice simultaneously in 2 successive issues of both the Gazette and one newspaper in wide

circulation in Saint Lucia of the places where and times when the draft physical plan may be inspected and shall give such other publicity to the matter as is appropriate to inform the public in general, and particularly persons whose interests are likely to be affected, directly or indirectly, by the proposals in the plan, of their right to make representations to the Head of the Physical Planning and Development Division with regard to the proposals therein.

(3) Any person may, within 8 weeks after the publication in the Gazette of the notice referred to in subsection (2), make representations in writing or in person on the draft physical plan to the Head of the Physical Planning and Development Division.

(4) After the expiry of the period prescribed by subsection (3) for the making of representations on a draft physical plan, the Head of the Physical Planning and Development Division shall consider the representations made and forward a report on the same together with his or her own comments to the Minister.

(5) After considering the draft physical plan submitted under subsection (1), and the Head of the Physical Planning and Development Division's report on the representations of the public and their comments thereon submitted under subsection (3), the Minister may accept the plan, with or without modifications, or may reject the plan.

(6) Where a draft physical plan has been submitted to and accepted by the Minister, with or without modifications, the Minister shall submit it for the approval of the House of Assembly.

(7) When a physical plan is approved by affirmative resolution of the House, the Head of the Physical Planning and Development Division shall cause notice of such approval to be published in the Gazette and the plan shall have full force and effect from the date of the last publication.

(8) The Head of the Physical Planning and Development Division shall make copies of an approved plan available for inspection at the offices of the Ministry and for sale to the public at a reasonable price.

14. Review and revision of approved plans

(1) At any time which is expedient, the Head of the Physical Planning and Development Division may carry out a review of an approved plan and submit to the Minister a report on that review together with proposals for any alterations or additions to the plan which appear to be appropriate.

(2) Without prejudice to the generality of subsection (1), the Head of the Physical Planning and Development Division shall at least once in every 5 years after the date on which a physical plan comes into operation review and report on that plan as aforesaid.

(3) For the avoidance of doubt it is hereby declared that any proposal for alternations or additions to an approved plan made under this section shall be made subject *mutatis mutandis* to all the requirements related to the preparation and approval of a physical plan set out in sections 12 and 13.

15. Status of physical plans

(1) When a physical plan, or any amendment to a physical plan, has been approved by the House of Assembly—

- (a) the Head of the Physical Planning and Development Division shall give principal consideration to the prescriptions of the plan in determining any application for permission to develop land in the area covered by the plan;
- (b) the Government of Saint Lucia shall be guided by the prescriptions of the plan in the preparation of any public sector development projects or programmes to be funded, in part or in whole, from Parliamentary appropriations.

(2) When 2 or more approved physical plans apply in whole or in part to the same area and any question arises as to the prescriptions for development of that area the later plan shall have precedence over the earlier plan, unless it expressly provides otherwise.

(3) An approved plan shall remain in effect until it has been rescinded by the Minister by notice in the Gazette.

PART 3 REGULATION OF DEVELOPMENT

16. Permission required to develop land

(1) Subject to this Act, a person shall not commence or carry out the development of any land in Saint Lucia without the prior written permission of the head of the Physical Planning and Development Division.

(2) For the purposes of subsection (1), a person shall be deemed to have commenced the development of land until the contrary is proved, the burden of which shall lie on any person charged, if that person commenced the laying out of roads, the laying of water pipes, the clearing of or levelling of land, the filling of ravines or swamps, the construction of any building or any preparatory work which might indicate an intention thereby to improve the land or increase its value or make it in any way ready for any type of development, except those to which section 18 applies.

17. Uses and operations not constituting or constituting development

(1) The following operations or uses of land shall not be deemed for the purposes of this Act to involve the development of land—

- (a) the carrying out of works for the maintenance, improvement or other alteration of any building, if the works affect only the interior of the building or do not materially affect the external appearance of the building;
- (b) the carrying out by or on behalf of the Government of Saint Lucia of any works required for the maintenance of a road if the works are carried out on land within the boundaries of the road;
- (c) the carrying out by or on behalf of the Government of Saint Lucia or any statutory undertaker of any works for the purpose of inspecting, repairing or renewing any sewers, water mains, pipes, cables or other apparatus, including the breaking open of any road or other land for that purpose;
- (d) the use of any building or land within the curtilage of a dwelling house for any purpose ancillary to the use of the dwelling house as such;
- (e) subject to such exceptions or limitations as the Minister may by order prescribe, the use of any land for the purposes of agriculture or forestry and the use for any of those purposes of any building on land so used; and
- (f) in the case of buildings or land that are used for a purpose of any class specified in an order made by the Minister under this section, the use thereof for any other purpose of the same class.

(2) For the avoidance of doubt it is hereby declared that—

- (a) the carrying out of building, engineering, mining or other operations in, on, over or under any land within the curtilage of a dwelling house involves development of that land;
- (b) the carrying out of building, engineering, mining or other operations in, on, over or under any land used for agriculture or forestry, or the subdivision of any such land, involves development of that land;

- (c) the use for display of an advertisement of any land or external part of a building which has not been previously used for that purpose which involves a material change in the use of that land or that part of that building;
- (d) the use as 2 or more separate dwelling units of any building previously used as one dwelling unit which involves a material change in the use of that building;
- (e) the accumulation of derelict vehicles, scrap metal, refuse, spoil, mineral tailings, sludge, effluent or waste or discarded material of any kind on land which involves a material change of use of that land, although any such material had previously been deposited thereon.

18. Permitted development

Despite the provisions of section 16, the classes of development specified in Schedule 3 are permitted and may be undertaken without the permission of the Head of the Physical Planning and Development Division, but such development shall be subject to any conditions or restrictions imposed by any regulations made under section 56.

19. Application for permission to develop land

An application to the Head of the Physical Planning and Development Division for permission to develop land shall be made on the prescribed form and shall be accompanied by—

- (a) a map sufficient to identify the land to which it relates and such plans, drawings and other materials as are necessary to describe the development which is the subject of the application;
- (b) notice in writing signed by the owner or agent of the owner of the land to which the application relates acknowledging that the owner has knowledge of and does not object to the making of the application;
- (c) any statutory consent which the applicant is required to obtain for or in connection with the development prior to applying for the permission of the Head of the Physical Planning and Development Division;
- (d) in cases where this is required by regulations made under this Act, the certificate of an engineer registered under the Engineers (Registration) Act; and
- (e) proof of payment of such fees as may be prescribed by regulations made under this Act.

20. Approval in principle

(1) Any person who intends to undertake the development of land may make application in the prescribed form to the Head of the Physical Planning and Development Division for approval in principle of the proposed development before preparing detailed plans.

(2) The Head of the Physical Planning and Development Division may grant approval in principle, with or without conditions, subject to the subsequent approval of any matters reserved until detailed plans have been submitted, or may refuse to grant approval in principle.

(3) Approval in principle granted under subsection (2) shall not be deemed to be permission to commence development and the applicant must comply with the provisions of section 19(1) before permission to commence development can be granted.

(4) Where only approval in principle is granted the Government shall not be liable for any loss suffered as a result of commencement of development or preparations for commencement of development undertaken.

(5) Approval in principle granted under this section may be revoked without compensation, if in the opinion of the Head of the Physical Planning and Development Division a situation has subsequently arisen which constitutes a danger to public health, safety or welfare.

(6) Where an approval in principle is revoked under subsection (5), the Head of the Physical Planning and Development Division shall specify the nature of the danger to public health, safety or welfare.

21. Requirement for further information

(1) In addition to the information required in an application form under this Part, the Head of the Physical Planning and Development Division may request in writing that the applicant provide such further information as may be necessary to determine that application.

(2) Where further information is requested by the Head of the Physical Planning and Development Division under subsection (1), the application shall be treated for the purposes of section 24 as having been made on the date when the information requested from the applicant is received by the Head of the Physical Planning and Development Division.

(3) Where the applicant does not furnish the further information requested by the Head of the Physical Planning and Development Division within a reasonable time of the request being made, the Head of the Physical Planning and Development Division may give the applicant notice that the application cannot be determined and has been cancelled; whereupon the Head of the Physical Planning and Development Division shall return the cancelled application to the applicant.

22. Environmental impact assessment

(1) Without prejudice to the generality of section 21, the Head of the Physical Planning and Development Division may require that an environmental impact assessment shall be carried out in respect of any application for permission to develop land in Saint Lucia, including an application for approval in principle, if the proposed development could significantly affect the environment.

(2) Unless the Head of the Physical Planning and Development Division otherwise determines, an environmental impact assessment shall be required in respect of an application for a development of any kind mentioned in Schedule 4.

(3) The Head of the Physical Planning and Development Division shall not grant permission for the development of land under an application to which this section applies unless the environmental impact statement has first been taken into account.

(4) Without prejudice to the generality of section 56, the Minister in consultation with the Head of the Physical Planning and Development Division may make regulations providing for—

- (a) the criteria and procedures for determining whether an activity is likely to significantly affect the environment so that an environmental impact assessment may be required in addition to the information that the applicant is ordinarily required to submit to the Head of the Physical Planning and Development Division;
- (b) the procedures for settling the scope of works of the environmental impact assessment to be carried out by the applicant in respect of any development;
- (c) the minimum contents of the environmental impact statement to be submitted to the Head of the Physical Planning and Development Division in respect of the environmental impact assessment carried out by the applicant;

- (d) the qualifications, skills, knowledge or experience which must be possessed by persons conducting environmental impact assessments for the purposes of this Act;
- (e) the procedures for public participation in the environmental impact assessment process and public scrutiny of the environmental impact statement submitted to the Head of the Physical Planning and Development Division;
- (f) the consideration by the Head of the Physical Planning and Development Division of an application in respect of which an environmental impact assessment has been required, including the criteria and procedures for review of the environmental impact statement.

(5) Where the Head of the Physical Planning and Development Division notifies an applicant that an environmental impact assessment is required, the Minister and any other public agency, if requested by the applicant, shall enter into consultation with the applicant to determine whether that agency has in its possession any information which the applicant considers relevant to the preparation of the environmental impact statement and, if it does, the agency shall make any such information available to the applicant and allow the applicant to take copies thereof on payment of the cost of making the copies, provided that the agency shall not be required to disclose confidential information to the applicant.

(6) Where a notice is issued under this section notifying the applicant that an environmental impact assessment is required, the Head of the Physical Planning and Development Division may inform any agency or department of Government having responsibility for the issue of any licence, permit, approval, consent or other document of authorization in connection with any matter affecting the development and such agency or department shall not grant such licence, permit, approval, consent or other document of authorization as aforesaid unless it has been notified that the notice has been complied with and that the Head of the Physical Planning and Development Division has granted permission for the proposed development.

23. Determination of applications

(1) Where application is made for permission to develop land under section 19, the Head of the Physical Planning and Development Division shall have regard to the provisions of the physical plan for the area within which the land is situated, if any, and to any other material considerations and may, subject to subsection (2), grant permission either unconditionally or subject to such conditions that appear to be fit, or may refuse permission.

(2) The Head of the Physical Planning and Development Division shall not grant permission where an application for any development mentioned in Schedule 4 is made, unless the application has been submitted to the Advisory Committee for review and the Advisory Committee has submitted its advice to the Head of the Physical Planning and Development Division in accordance with section 7(5).

(3) The Head of the Physical Planning and Development Division shall give the applicant notice in writing of the decision made under subsection (1) and, in the case of an application for permission to develop land where such permission is granted subject to conditions or is refused, the notice shall state the reasons for that decision.

(4) If after consideration of the application and examination of the plans submitted therewith, the Head of the Physical Planning and Development Division considers it desirable so to do, the plans may be referred to the applicant for amendment and, where this is done, the running of time for giving a decision on the application will be suspended for the purposes of section 24 until the amended plans are resubmitted by the applicant.

(5) Where the permission granted to any person to undertake any development is granted subject to conditions, the Head of the Physical Planning and Development Division may, if this appears to be necessary, enter into an agreement with such person in order to give effect to such conditions.

(6) The Head of the Physical Planning and Development Division may require any developer to provide a bond in such sum, or any other instrument of guarantee of performance, as may be necessary to give effect to any permission to undertake development.

(7) Despite the provisions of subsections (5) and (6) and anything that may be done thereunder, the Head of the Physical Planning and Development Division may at any time revoke any permission to develop land or any part thereof, without compensation, if any fundamental condition attached to the permission to develop the land is not complied with.

24. Limitation period

(1) Where an application for permission to develop land is duly made to the Head of the Physical Planning and Development Division, the Head of the Physical Planning and Development Division shall give a decision within a period of 90 days from the date of receipt of the application or such extended period as may be agreed upon in writing between the applicant and the Head of the Physical Planning and Development Division.

(2) Unless the Head of the Physical Planning and Development Division gives a decision within the period prescribed by subsection (1)—

- (a) in the case of an application for the erection of or any other building operations to be carried out on or in relation to a single-family dwelling house, permission shall be deemed for all purposes to have been granted unconditionally by the Head of the Physical Planning and Development Division at the expiration of such period or the last of such extended periods; and
- (b) in all cases other than those mentioned in paragraph (a), the provisions of section 26 shall apply in relation to the application as if it had been refused by the Head of the Physical Planning and Development Division.

25. Reference of application to Cabinet

(1) The Minister may give directions in writing to the Head of the Physical Planning and Development Division requiring that a particular application or all applications of any particular class or in respect of any particular area specified in the direction shall be referred to the Cabinet for determination, provided that all documents required by the Physical Planning and Development Division have been submitted.

(2) Where an application is referred to the Cabinet under this section, the Head of the Physical Planning and Development Division shall give notice to the applicant in writing that the application has been referred to the Cabinet pursuant to those directions.

(3) The provisions of section 23(1) shall apply, with any necessary modifications, in relation to the determination of an application by the Cabinet as they apply in relation to the determination of an application by the Head of the Physical Planning and Development Division.

(4) On the determination of any application referred to the Cabinet under this section, the Minister shall by notice in writing under the hand of the Permanent Secretary inform the applicant and the Head of the Physical Planning and Development Division of the Cabinet's decision and the reasons for that decision.

26. Right of appeal

(1) Where permission for the development of any land is refused by the Head of the Physical Planning and Development Division, or is granted by the Head of the Physical Planning and Development Division subject to conditions, the applicant may, within 30 days from receipt of notice of the decision, appeal in writing against that decision to the Appeals Tribunal, setting out the grounds upon which the appeal is made.

(2) Before determining an appeal referred to it under this section, the Appeals Tribunal shall, if either the applicant or the Head of the Physical Planning and Development Division so desire, give each of them the opportunity of appearing before and being heard by it.

(3) Where an appeal is duly made to the Appeals Tribunal, the Tribunal shall give its decision within a period of 30 days from the date of receipt of the appeal or such extended period not exceeding 90 days as may be approved by the Minister.

(4) The decision of the Appeals Tribunal on any appeal referred to it shall be conveyed to the Minister in writing, and the Minister shall by notice in writing under the hand of the Permanent Secretary inform the applicant and the Head of the Physical Planning and Development Division of that decision.

(5) The decision of the Appeals Tribunal on any appeal shall be final.

(6) An appeal shall lie to the High Court from a decision of the Appeals Tribunal on a point of law, but not on any matter of fact or on the merits of any decision made by the Head of the Physical Planning and Development Division, Cabinet or the Appeals Tribunal.

27. Effect of permission

Without prejudice to the provisions of this Part as to the lapse or modification or revocation of any permission to develop land, such permission shall, unless the notice of permission provides otherwise, endure for the benefit of the land concerned and of all persons for the time being interested in that land.

28. Permission to lapse

(1) If permission is granted for the development of land and the development is not commenced within a period of 12 months from the date on which it was granted, it shall lapse.

(2) A person who intends to carry out a development for which permission has been granted shall give notice to the Head of the Physical Planning and Development Division of the date on which that development will commence.

(3) Where, after the date specified in a notice of commencement given under subsection (2), the Head of the Physical Planning and Development Division is not satisfied that the development has been substantially commenced, the Head of the Physical Planning and Development Division shall notify the person from whom the commencement notice was received that the permission will lapse by a prescribed date if the development is not commenced to his or her satisfaction before that date.

(4) Where the Head of the Physical Planning and Development Division has been notified in writing by the developer that permitted building or engineering operations have been completed, the Head of the Physical Planning and Development Division shall issue a completion certificate if the works have been constructed in accordance with the permission granted for that development.

(5) If a development other than a development by way of mining operations or a material change in the use of any land is not completed within 30 months after the date of commencement fixed by notice given under subsection (2) or (3), or such other period as may be prescribed in the notice granting permission, the permission shall lapse, without prejudice to the status of such of the permitted works as are then complete.

(6) Where permission has been granted for the development of land by way of subdivision and the undertaking of engineering operations in relation thereto, no parcel of land within the approved subdivision shall be transferred under the Land Registration Act unless a completion certificate has been issued under this Act in respect of the approved engineering operations.

29. Development to be in accordance with approved plans

(1) Whenever any plans have been submitted to the Head of the Physical Planning and Development Division on an application for permission to develop any land and such permission has been granted, the development in question shall be carried out in accordance with the approved plans and any conditions subject to which permission was granted.

(2) The Head of the Physical Planning and Development Division may approve any minor variation to an approved plan which does not alter or affect the terms and conditions of the permission granted by the Head of the Physical Planning and Development Division in any material respect, without requiring the applicant to submit a fresh application.

(3) If before or during the course of any development of land, the developer finds that it is impracticable or uneconomic to carry out the said development in conformity with the plans as approved by the Head of the Physical Planning and Development Division, he or she may apply to the Head of the Physical Planning and Development Division for permission to amend the plans accordingly and the Head of the Physical Planning and Development Division may grant or refuse permission for such amendment, or may return the plans to the developer for further amendment.

(4) If the Head of the Physical Planning and Development Division refuses permission to develop land in accordance with the amended plans as provided, in subsection (3), the Head of the Physical Planning and Development Division shall at the time of such refusal give to the applicant in writing its reasons for so refusing, in which case the provisions of section 26 shall apply as in the case of an original application to the Head of the Physical Planning and Development Division.

30. Modification or revocation of permission

(1) Subject to this section, if it appears to the Minister that it is expedient, having regard to the interest of national security or the general economic policy of the Government or any other material consideration, that any permission to develop land granted by the Head of the Physical Planning and Development Division should be modified or revoked, the Head of the Physical Planning and Development Division shall by written notice to the person entitled to the benefit of the permission, revoke or modify the permission to develop land to such extent as the Minister directs.

(2) The power conferred by subsection (1) to modify or revoke permission to develop land may be exercised—

- (a) where the permission relates to carrying out building or other operations, at any time before those operations have been completed;
- (b) where the permission relates to a change of use of any land, at any time before the change has taken place,

but the modification or revocation of permission for the carrying out of building or other operations shall not affect so much of those permitted operations as has been previously carried out.

(3) Any person who has incurred expenditure in carrying out work that is rendered abortive by the modification or revocation of permission under this section, including any expenditure incurred in the preparation of plans or upon similar matters for the purposes of or preparatory to such work, or has otherwise suffered loss or damage directly attributable to such modification or revocation, is entitled to adequate compensation in respect of that expenditure, loss or damage.

(4) Permission to develop land granted by the Head of the Physical Planning and Development Division, shall not be revoked or modified unless the person entitled to the benefit of the permission has been given the opportunity to make representations before the Head of the Physical Planning and Development Division.

31. Reservation of open space

(1) The Head of the Physical Planning and Development Division, as a condition attached to a permission to undertake the development of land, may require the developer to provide as part of the development programme, land which shall be reserved for public recreation or as an open space.

(2) Where the Head of the Physical Planning and Development Division requires land to be reserved for public recreation in accordance with subsection (1), that land shall, upon payment of adequate compensation in accordance with Part V to the owners of that land and subject to subsection (3), be vested in the Crown.

(3) Property shall not vest in the Crown unless a vesting order is published in the Gazette.

(4) No completion certificate shall be issued under section 28(4) in respect of any development where land is to be vested in the Crown, until the Crown is registered as owner of the land.

(5) The Crown may, with the approval of Cabinet place land vested in the Crown under subsection (2), under the management of a statutory undertaker in order to ensure the preservation of the land for the purpose for which it was reserved.

32. Declaration of zoned area

(1) Despite anything contained in the provisions of this Act, at any time before a physical plan for the area has been approved by the House of Assembly, the Minister may make an order to be published in the Gazette declaring any area to be a zoned area and reserving it for specific purposes.

(2) Where an area has been declared a zoned area under subsection (1), the Head of the Physical Planning and Development Division shall not approve any application for the development of land in that area which is inconsistent with the purposes for which the area is reserved.

(3) Where any land within an area zoned in accordance with the provisions of subsection (1) depreciates in value as a result of such zoning, adequate compensation shall be paid to the owners of that land.

33. Preservation of sites and buildings of interest

(1) The Head of the Physical Planning and Development Division shall compile lists of buildings, monuments and sites of special prehistoric, historic or architectural interest, or may adopt, with or without modifications, any such lists compiled by the Saint Lucia National Trust under the Saint Lucia National Trust Act or the National Conservation Authority under the National Conservation Act or any other person and may amend any such lists from time to time.

(2) As soon as may be practicable after the inclusion of any building, monument or site on any list compiled or adopted under subsection (1), or any amendments to a list have been made, the Head of the Physical Planning and Development Division shall serve notice on every owner and occupier of the building, monument or land stating that the building, monument or site has been included in or removed from the list, as the case may be, and shall publish any such list or amendment to a list in the Gazette.

(3) Despite the requirement for permission to develop land under this Act, a person shall not execute or cause or permit to be executed any works for the demolition or alteration of a building or monument or disturbance of a site included in a list compiled or adopted under subsection (1) which would seriously affect its character, unless notice of the proposed works is given to the Head of the Physical Planning and Development Division at least 2 months before the works are commenced.

(4) When notice of any proposed works has been given under subsection (3), the Head of the Physical Planning and Development Division shall as soon as may be practicable send a copy of the notice to the Saint Lucia National Trust for their consideration and comments.

(5) Where it appears to the Head of the Physical Planning and Development Division to be expedient to make provision for the preservation of any building, group of buildings, monument, parcel or area of land, the Head of the Physical Planning and Development Division may for that purpose by an order published in the Gazette restrict the demolition, alteration or extension of that building or group of buildings or monument or disturbance of that land.

(6) Where any works have been carried out in contravention of an order made under subsection (5), the Head of the Physical Planning and Development Division may require the restoration of the affected building, monument or site to its former state.

(7) This section does not render unlawful the execution of any works which are urgently required in the interests of health or safety or for the preservation of the building, monument or site or of neighbouring property, provided that notice thereof is given to the Head of the Physical Planning and Development Division as soon as may be practicable after the necessity for the work arises.

34. Protection of natural areas

(1) The Head of the Physical Planning and Development Division shall compile lists of places of natural beauty or natural interest, including submarine and subterranean areas, and their flora and fauna, or may adopt, with or without modifications, any such lists compiled by the Saint Lucia National Trust under the Saint Lucia National Trust Act or the National Conservation Authority under the National Conservation Authority Act and may amend any such lists from time to time.

(2) Where the Head of the Physical Planning and Development Division is of the view that it is desirable to afford special protection to any area on a list compiled or adopted under subsection (1), the Minister may, by order published in the Gazette declare that area to be an environmental protection area.

(3) Before the Minister makes an order under subsection (2), the Head of the Physical Planning and Development Division shall take reasonable steps to ensure that—

- (a) adequate publicity is given to the proposed declaration within the area which it proposes to protect;
- (b) persons who may wish to make representations with respect to the proposed declaration are invited and given an adequate opportunity to make representations on the proposal;
- (c) any representations made on the proposal are taken into account in deciding whether the order should be made.

(4) An order made under subsection (2) may—

- (a) authorise the carrying out within the protected area of such works as may be expedient for the protection or rehabilitation of the environment in the area;
- (b) require that an environmental impact assessment be carried out in respect of every application for development within the area;
- (c) restrict or prohibit development, or development of any class, within the area;
- (d) provide for the control over the use of land within the area for the purposes of agriculture, forestry or fisheries; or
- (e) restrict the entry of persons into the area or the movement of persons or the carrying out of activities by persons within the area.

(5) Where any land within an area declared an environmental protection area in accordance with the provisions of subsection (2) depreciates in value as a result of any restriction placed on its use or development by the order, adequate compensation shall be paid to the owners of that land.

35. Preservation of amenities

(1) If it appears to the Head of the Physical Planning and Development Division that the amenity of any area is seriously injured by reason of the ruinous, unsafe or dilapidated condition of any building, or by the condition of any garden, vacant site or other open land, or the deposit of refuse, spoil or derelict vehicles, or the occupation of land or a public road for any unauthorised purpose, including the repair of vehicles, the Head of the Physical Planning and Development Division may serve on the owner or occupier of the land, or the person responsible for the injury, a notice requiring such steps to be taken for abating the injury as may be specified therein.

(2) If any step specified in the notice served under subsection (1) is not complied with, within the time specified in the notice which shall not be more than 28 days, the Head of the Physical Planning and Development Division may execute the work required to abate the injury and recover from the owner or the occupier the expenses reasonably incurred for any step taken by the Head of the Physical Planning and Development Division under this section.

(3) Where an area is declared to be a disaster area by the Minister, the Head of the Physical Planning and Development Division may, with the approval of the Minister, in the interest of the safety of persons, give notice of the intention to demolish buildings and may demolish such buildings subject to the payment of adequate compensation, in accordance with Part 5, to the owners.

36. Advertisement control

(1) A person shall not display an advertisement on any building or land except with the written permission of the Head of the Physical Planning and Development Division.

(2) The Head of the Physical Planning and Development Division may make regulations under this Act for restricting or controlling the display of advertisements so far as is expedient in the interests of amenity or public safety and, without restricting the generality of the foregoing, any such regulations may—

- (a) regulate the dimensions, appearance and position of advertisements that may be displayed, the sites on which advertisements may be displayed and the manner in which they are affixed to buildings or land;
- (b) prescribe different provisions with respect to different areas or places and in particular make special provisions with respect to areas or places defined in the Regulations as areas of special control, the amenities of which appear to the Head of the Physical Planning and Development Division to require special protection;
- (c) prohibit the display in areas of special control of all advertisements of such classes or descriptions as may be specified in the Regulations;
- (d) provide for the removal of any advertisement that is being displayed in contravention of the Regulations or the discontinuation of the use for the exhibition or display of advertisements of any site that is being used for that purpose in contravention of the Regulations.

(3) Regulations made under this section may be made so as to apply to advertisements which are being exhibited or displayed on the date on which the Regulations come into force or to the use for the exhibition or display of advertisements of any site which was being used for that purpose on that date.

(4) Where the display of advertisements in accordance with Regulations made under this section involves the development of land within the meaning of this Act, permission for that development shall be deemed to have been granted by virtue of this section, and no application shall be necessary in that behalf.

(5) A person is deemed to display an advertisement if—

- (a) he or she is the owner or occupier of the land on which the advertisement is displayed; or

- (b) the advertisement gives publicity to his or her goods, trade, business or other concerns.

(Amended by Act 3 of 2005)

PART 4 ENFORCEMENT

37. Enforcement notices

(1) Where it appears to the Head of the Physical Planning and Development Division that—

- (a) any development of land has been carried out after this Act comes into force without the grant of permission required under Part 3; or
- (b) the developer has not complied with any condition subject to which permission was granted in respect of any development,

the Head of the Physical Planning and Development Division may, if it appears to be expedient to do so having regard to the provisions of the development plan for the area, if any, and to any other material considerations—

- (i) in a case to which paragraph (a) applies, within 4 years of the development being carried out, or
- (ii) in a case to which paragraph (b) applies, within 4 years of the date of the alleged failure to comply with the condition,

serve an enforcement notice on the owner and the occupier of the land and any other person who has a registered interest in the land.

(2) An enforcement notice shall specify the development that is alleged to have been carried out without the grant of permission or the matters in respect of which it is alleged that the development does not comply with the conditions subject to which permission was granted, as the case may be, and may require such steps as may be specified in the notice to be taken within such period as may be specified for restoring the land to its condition before development took place or for securing compliance with the conditions, as the case may be.

(3) An enforcement notice shall be served no less than 14 days before it takes effect and, except as otherwise provided in this section, shall take effect at the expiration of such period as may be specified therein.

(4) The fact that the Head of the Physical Planning and Development Division fails to serve an enforcement notice on either one of the persons mentioned in subsection (1) shall not invalidate any proceedings under the enforcement notice against the other one of those persons.

(5) When, before the enforcement notice takes effect, an application is made to the Head of the Physical Planning and Development Division for permission for—

- (a) the retention on land of any buildings or works to which the enforcement notice relates; or
- (b) the continuance of any use of the land to which the enforcement notice relates,

the operation of the enforcement notice shall be suspended pending the determination of that application and, if the permission applied for is granted by the Head of the Physical Planning and Development Division, the enforcement notice shall not take effect.

(6) When, before the enforcement notice takes effect, an appeal is made to the court under section 38 by a person on whom the enforcement notice was served, the operation of the enforcement notice shall be suspended pending the final determination or withdrawal of the appeal.

(7) Compliance with an enforcement notice shall not discharge the enforcement notice.

(8) The Head of the Physical Planning and Development Division may at any time revoke an enforcement notice without prejudice to the power to serve another enforcement notice in respect of the same alleged breach of the provisions of this Act.

(9) Where an enforcement notice is revoked under subsection (8), the Head of the Physical Planning and Development Division shall serve notice of the revocation on every person on whom the enforcement notice was served.

38. Right to appeal against enforcement notices

(1) If any person upon whom an enforcement notice is served is aggrieved by the enforcement notice, that person may, at any time before the enforcement notice takes effect, appeal against the enforcement notice to the Appeals Tribunal.

(2) On an appeal made under subsection (1), the Appeals Tribunal—

(a) if satisfied that permission was granted for the development to which the notice relates, or that no such permission was required in respect of that development, or the conditions subject to which permission was granted have been complied with, as the case may be, shall quash the enforcement notice to which the appeal relates; or

(b) in any other case, shall dismiss the appeal.

(3) Where an appeal is dismissed by the Appeals Tribunal under subsection (2)(b), the Appeals Tribunal may direct that the enforcement notice shall not take effect until such date, not being later than 28 days from the date of determination of the appeal, as the Appeals Tribunal thinks fit.

(4) A person aggrieved by a decision of the Appeals Tribunal under subsection (2) may appeal against that decision to the High Court and the operation of the enforcement notice shall be suspended until the appeal is determined.

39. Stop notices

(1) Where the Head of the Physical Planning and Development Division has served an enforcement notice in respect of any land, the Head of the Physical Planning and Development Division may also serve a stop notice in respect of that land, prohibiting any person on whom it is served from carrying on or continuing any specified operations on the land which are alleged in the enforcement notice to have been carried out without permission or in breach of the conditions subject to which permission was granted, or are so closely associated with those operations as to constitute substantially the same operations.

(2) A stop notice served under subsection (1) must contain a reference to, and have annexed to it a copy of, the enforcement notice served in respect of the development to which the stop notice relates.

(3) A stop notice may be served by the Head of the Physical Planning and Development Division on any person who appears to have an interest in the land to which it relates or to be concerned with the carrying out of any operations thereon.

(4) A stop notice shall take effect on its date of service and, without prejudice to the provisions of subsection (6), shall cease to have effect when—

(a) permission is granted for the retention of the development to which the enforcement notice relates; or

(b) the enforcement notice to which the stop notice relates is revoked by the Head of the Physical Planning and Development Division or quashed by the Appeals Tribunal or the Court of Appeal; or

(c) the Head of the Physical Planning and Development Division enters upon the land under section 40.

(5) A stop notice shall not be invalid by reason that the enforcement notice to which it relates was not properly served on the owner and occupier of the land as required by section 37, if it is shown that the Head of the Physical Planning and Development Division took all such steps as were reasonably practicable to effect proper service.

(6) The Head of the Physical Planning and Development Division may at any time revoke a stop notice without prejudice to the power to serve another stop notice in respect of the same alleged breach of the provisions of this Act.

(7) Where a stop notice is revoked under subsection (6), the Head of the Physical Planning and Development Division shall serve notice of the revocation on every person on whom the stop notice was served.

(8) A person who at the time a stop notice was served had an interest in the land to which it relates is entitled to compensation in respect of any loss or damage, including any sum payable for breach of contract, directly attributable to compliance with the prohibition contained in the stop notice, where the stop notice ceases to have effect in any of the following circumstances—

- (a) the enforcement notice to which the stop notice refers is quashed on the grounds specified in section 38(2)(a);
- (b) the enforcement notice to which the stop notice refers is revoked by the Head of the Physical Planning and Development Division otherwise than in consequence of the grant of permission for the development of land to which it relates or for its retention or continuation without compliance with the condition or limitation subject to which it was permitted, as the case may be; or
- (c) the stop notice is revoked.

40. Power to enter land and execute remedial works

(1) If within the period specified in an enforcement notice, or such extended period as the Head of the Physical Planning and Development Division may allow, any steps required by the enforcement notice to be taken other than the discontinuation of any use of land have not been taken, the Head of the Physical Planning and Development Division may personally or by persons under his or her authority or by contractors enter upon the land and take those steps and may recover any expenses reasonably incurred for those purposes from the person who is then the owner of the land.

(2) A person who obstructs or interferes with the exercise of the power vested in the Head of the Physical Planning and Development Division by subsection (1), commits an offence and is liable on summary conviction to a fine not exceeding \$10,000.

(3) In any proceedings for the recovery of expenses filed by the Head of the Physical Planning and Development Division under subsection (1), if the defendant, having been entitled to appeal to the Court under section 38, failed to make such an appeal, he or she shall not be entitled to dispute the validity of the action taken by the Head of the Physical Planning and Development Division under subsection (1) on any ground that could have been raised in such an appeal.

(4) All the expenses incurred by the owner, occupier or developer of any land for the purposes of complying with an enforcement notice served under section 37 in respect of any development, and any sums paid by the owner of the land to the Head of the Physical Planning and Development Division in respect of the expenses incurred by the Head of the Physical Planning and Development Division under subsection (1), shall be held to have been incurred or paid for the use and at the request of the person by whom the unauthorised development was carried out or by the person who failed to meet the conditions subject to which approval was granted.

41. Non-compliance with enforcement or stop notice

- (1) Where—

- (a) an enforcement notice has been served on a person who was, when the enforcement notice was served on that person, the owner of the land to which the enforcement notice relates; and
- (b) within the period specified by the notice or such extended period as the Head of the Physical Planning and Development Division may allow any steps required by the enforcement notice to discontinue any operations or to remove, demolish or alter any buildings or other works on that land have not been taken,

that person commits an offence and is liable on summary conviction to a fine of \$10,000 and, in the case of a continuing offence, to a further fine of \$250 for every day after the first day when the requirements of the enforcement notice have not been met.

(2) A person who carries out any operations to reinstate or restore buildings or other works that have been demolished or altered in accordance with an enforcement notice commits an offence and is liable on summary conviction to a fine not exceeding \$8,000.

(3) Where, by virtue of an enforcement notice, any conditions are required to be complied with in respect of the carrying out of any operations on any land, any person who, after that notice takes effect, carries out or causes or permits the operations to be carried out in contravention of the enforcement notice, is liable on summary conviction to a fine of \$10,000 and, in the case of a continuing offence, to a further fine of \$250 for every day after the first day when the operations are so continued.

(4) Where, by virtue of an enforcement notice, any use of land is to be discontinued, or any conditions are required to be complied with in respect of the use of land, any person who, after that notice takes effect, uses the land or causes or permits the land to be used in contravention of the enforcement notice, is liable on summary conviction to a fine of \$10,000 and, in a case of a continuing offence, to a further fine of \$250 for every day after the first day when the use is so continued.

(5) A person on whom a stop notice has been served who carries out, or causes or permits to be carried out any operations prohibited by the notice, is liable on summary conviction to a fine not exceeding \$50,000 and, in the case of a continuing offence, a further fine not exceeding \$1,000 a day for every day after the first day on which the offence continues.

42. Injunctions

In addition to any other remedy provided by this Act, the Head of the Physical Planning and Development Division may in any case institute a civil action for an injunction by way of fixed date claims to prevent any person from violating the provisions of this Act, or to enforce any enforcement notice or stop notice, whether or not the Head of the Physical Planning and Development Division has exercised or proposes to exercise any of his or her other powers under this Act. (*Amended by Act 3 of 2005*)

43. Special enforcement areas

(1) Despite anything contained in the provisions of this Act the Minister may, for the purpose of preventing squatting or other forms of unauthorised development, by order published in the Gazette, declare any area to be a special enforcement area.

(2) Without prejudice to the provisions of section 51, where an area is declared to be a special enforcement area under subsection (1) the Head of the Physical Planning and Development Division may upon service of a notice on the owner or occupier of the land, not less than 14 days before the intended action, remove, demolish or alter any development where such development has commenced without the written permission of the Head of the Physical Planning and Development Division and where the Head of the Physical Planning and Development Division is satisfied that permission would not have been granted for that development.

PART 5 COMPENSATION AND ACQUISITION

44. Claims for compensation

(1) A claim for compensation alleged to be payable under this Act shall be made in writing to the Minister.

(2) The Minister may require a claimant to provide such further information in support of a claim for compensation as is necessary for its determination, and a determination of the claim may be deferred until after such further information has been received by the Minister.

(3) Where the claim for compensation arises from a decision of the Head of the Physical Planning and Development Division and it appears to the Minister that the decision which gave rise to the claim for compensation might properly be withdrawn or modified, the Minister may refer the matter to the Appeals Tribunal for its determination as if the claim for compensation had included an appeal against that decision.

(4) Compensation payable under this Act shall, in default of determination by agreement, be determined by the Appeals Tribunal.

45. Exclusion or limitation of compensation in certain cases

Compensation shall not be payable under this Act in respect of a decision by the Head of the Physical Planning and Development Division whereby permission is refused, modified or revoked for the development of land if, despite that refusal, modification or revocation, there is available with respect to that land, permission for a development of the land consisting of the construction of industrial, commercial or residential buildings or any combination of such buildings.

46. Compulsory acquisition

(1) The Crown may acquire by agreement any land which is required for the purposes of implementing a physical plan and may, where it is unable to acquire such land by agreement, acquire it in accordance with the provisions of the Land Acquisition Act.

(2) The Crown may, by way of sale or lease, dispose of land acquired compulsorily under this Part to any local authority, statutory undertaker or other person or body for development in accordance with permission granted under Part 3.

PART 6 MISCELLANEOUS

47. Registers to be kept

(1) The Head of the Physical Planning and Development Division shall maintain a register containing particulars of—

- (a) any application for permission to develop land, including the name and address of the applicant, the date of the application and the development forming the subject of the application;
- (b) the date and effect of any decision made in respect of any such application;
- (c) any appeal in respect of such a decision and the decision made on the appeal;
- (d) any modification or revocation of any permission granted in respect of any such application;

- (e) any enforcement notice or stop notice issued in respect of any development of land;
- (f) any permission granted for the display of an advertisement;
- (g) any commencement notice received and any completion certificate issued under this Act; and
- (h) any other matter which may be prescribed by regulations made under this Act.

(2) The register kept by the Head of the Physical Planning and Development Division under subsection (1) shall include an index, which shall be in the form of a map, and both the register and the index may be kept in an electronic data storage and retrieval system.

(3) Every entry in the register shall be made within 7 days of the date on which the decision, notice or event to which it relates was made, filed, issued or done.

(4) The register shall be kept at the office of the Ministry and any person shall be entitled to access to the information recorded therein and to take copies of such information on payment of the prescribed fee.

48. Powers of entry, etc.

(1) The Head of the Physical Planning and Development Division may authorise in writing any person to enter at any reasonable time any land and premises therein—

- (a) in respect of which an application for permission to develop has been made to the Head of the Physical Planning and Development Division; or
- (b) where the Head of the Physical Planning and Development Division has reason to believe that an infringement of the provisions of the Act has occurred or is about to occur,

for the purposes of inspection and survey.

(2) A person authorised under this section to enter upon any land or premises shall, if so required, produce evidence of their authority before entering, and shall not deem admission as of right to any land or premises which are occupied unless 24 hours notice of intended entry is given to the occupier.

(3) Any person who obstructs a person acting in the exercise of their power under this section shall be liable on summary conviction to a fine not exceeding \$500 or to imprisonment for a term not exceeding 3 months.

49. Service of notices

Any notice or other document required or authorized to be served or given under this Act, or under any statutory instrument made under this Act, may be served or given either—

- (a) by delivering it to the person on whom it is to be served or to whom it is to be given; or
- (b) by leaving it at the usual or last known place of abode of that person, or in the case where an address for service has been furnished by that person, at that address; or
- (c) by sending it by prepaid registered letter addressed to that person at that person's usual or last known place of abode, or in the case where an address for service has been furnished by that person, to that address; or
- (d) in the case of an incorporated company or body, by delivering it to the Secretary or clerk of the company or body at their registered or principal office, or sending it by prepaid registered letter addressed to the Secretary or clerk of the company or body at that office;

- (e) by placing it in a conspicuous area on the building or other development.

(Amended by Act 3 of 2005)

50. Liability of landowners

If the development of any land is commenced or carried out without the written permission of the Head of the Physical Planning and Development Division, or carried out in a manner not in accordance with plans submitted or resubmitted to and approved by the Head of the Physical Planning and Development Division, every owner of such land within the meaning of section 2 is liable therefor.

51. Contravention of this Act

(1) A person shall not contravene any provision of this Act or of any regulations or the terms and conditions of any permission granted or agreement made hereunder.

(2) Unless a different or other penalty or punishment is specifically prescribed, a person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$10,000, and in the case of a continuing offence, to a further penalty of \$250 for each day during which the offence continues.

52. Notification to be given to Land Registrar

The Head of the Physical Planning and Development Division shall notify the Land Registrar, giving full details of every parcel of land affected, of every order or notice given or issued under this Act affecting the title to or transferability of land.

53. Expenses of Advisory Committees and Appeals Tribunal

All expenses incurred by any Advisory Committee and by the Appeals Tribunal in the discharge of their functions shall, unless otherwise provided for, be a charge on the Consolidated Fund.

54. Recovery of monies due to or by Crown

Any amount due to or by the Crown for any work done or expenses incurred under the provisions of this Act may be recovered summarily as a civil debt.

55. Qualification of existing law

(1) For the purpose of enabling development to be carried out in accordance with a permission granted under this Act, any conditions or regulations contained in any other law which would conflict with the conditions attached to a planning permission shall not apply.

(2) This Act and any restrictions or powers thereby imposed or conferred in relation to land apply and may be exercised in relation to any land, although provision is made by any other written law in force at the passing of this Act for authorising or regulating the development of the land.

56. Regulations

(1) The Minister may make regulations generally for giving effect to the provisions of this Act and without prejudice to such general powers may make regulations with respect to the following matters—

- (a) the form of any application, notice, order, certificate or other document required to be made, issued or served under this Act;
- (b) the payment of fees on the submission, examination and all matters pertaining to any application under this Act;
- (c) amendments to the Schedules to this Act;

- (d) the prescription of all things required or authorised by this Act to be prescribed.

(2) All regulations made under this Act shall be published in the Gazette.

57. Application to the Crown

This Act binds the Crown.

58. Savings

In so far as anything done under the Town and Country Planning Act, the Control of Advertisements Act and the Land Development (Interim Control) Act repealed by this Act could have been done under a corresponding provision of this Act, it shall not be invalidated by the repeal but shall have effect as if done under that provision.

59. References to repealed enactments

Where any document refers expressly or by implication to the Town and Country Planning Act, the Control of Advertisements Act and the Land Development (Interim Control) Act repealed by this Act the reference shall, except where the context otherwise requires, be construed as a reference to the corresponding provision of this Act.

PART 7 TRANSITIONAL PROVISIONS

60. Reference to Development Control Authority

Until the Development Control Authority is dissolved, any reference to the Head of the Physical Planning and Development Division in Parts 2 to 6 inclusive of this Act shall, in so far as the nature of that reference permits, be construed with the necessary modifications as a reference to the Development Control Authority.

61. Development Control Authority

(1) Despite section 5, the body corporate established under section 3 of the Land Development (Interim Control) Act 1971 as the Development Control Authority is preserved and shall continue in existence as a body corporate and shall be responsible for the carrying out of the statutory duties and exercising the statutory powers under section 5 and created by this Act.

(2) When the Development Control Authority is dissolved, the Head of the Physical Planning and Development Division shall undertake his or her functions under section 5 and as created by this Act.

(Substituted by Act 3 of 2005)

62. Pending applications

(1) Every application made under an enactment repealed by this Act and wholly or partly heard by the Development Control Authority when this Act comes into force is to be continued and dealt with in all respects as if this Act had not come into force.

(2) Every application made under a repealed enactment that has not been wholly or partly heard by the Development Control Authority when this Act comes into force is to be taken as an application made under this Act and this Act is to apply accordingly.

63. Continuation of periods of time

Where a period of time specified in an enactment repealed by this Act is current when this Act comes into force, and there is a corresponding provision in this Act, this

Act has effect as if the corresponding provision had been in force when that period began to run.

64. Preservation of rights, claims, offences and proceedings

(1) Every appeal made under an enactment repealed by this Act that has been commenced but not finally determined before this Act comes into force, is to be continued and dealt with as if this Act had not come into force.

(2) If, immediately before this Act comes into force, a claim for compensation under an enactment repealed by this Act has been or could have been made, that claim may be made or continued or enforced in all respects as if this Act had not come into force.

(3) All proceedings in respect of breaches of or offences committed against an enactment repealed by this Act may be commenced as if this Act had not come into force.

(4) Every proceeding under an enactment repealed by this Act may be continued and completed—

- (a) if the proceeding has been partly or wholly heard, as if the enactments repealed by this Act were still in force; and
- (b) in all other cases, as if the proceeding had been commenced under this Act.

Schedule 1

(Section 8)

CONSTITUTION AND PROCEDURE OF THE PHYSICAL PLANNING AND DEVELOPMENT APPEALS TRIBUNAL

1.

(1) The Appeals Tribunal shall consist of not less than 3 or more than 5 members, appointed by the Cabinet, of whom the Chairperson shall be a legal practitioner of not less than 5 years standing and the other members shall have training or experience in environmental sciences, physical planning, engineering, architecture, land surveying or land development.

(2) A member of the Appeals Tribunal shall, subject to the provisions of this Schedule, hold office for a period not exceeding 3 years, but shall be eligible for reappointment.

(3) Where the Chairperson or any member of the Appeals Tribunal is absent or unable to perform the functions of their office, the Cabinet may appoint another person to act temporarily in place of the Chairperson or that member.

(4) Any member of the Appeals Tribunal, may at any time resign from office by instrument in writing addressed to the Cabinet and transmitted through the Chairperson, and such resignation shall take effect as from the date of receipt of that instrument by the Cabinet.

(5) The Cabinet may at any time revoke the appointment of any member of the Appeals Tribunal, including the Chairperson.

(6) The appointment of any member of the Appeals Tribunal and the termination of office of any person as a member, whether by death, resignation, removal, effluxion of time or otherwise, shall be published in the Gazette.

2.

(1) The Cabinet shall appoint a public officer to be Secretary of the Appeals Tribunal.

(2) The Secretary shall keep a written record of all proceedings of the Appeals Tribunal, which shall be confirmed by the Chairperson.

3.

Each member of the Appeals Tribunal shall be paid such remuneration and allowances, if any, as Cabinet may determine.

4.

(1) The Appeals Tribunal shall convene at such time, at such places and on such days as may be necessary or expedient for the discharge of its functions.

(2) The quorum for proceedings of the Appeals Tribunal shall comprise a majority of the members, but where a member is disqualified from taking part in the proceedings of the Appeals Tribunal in respect of any matter, that member shall be disregarded for the purpose of constituting a quorum for hearing, deliberating on and deciding that matter.

(3) The decisions of the Appeals Tribunal shall be by a majority of votes of those members present and voting and, in addition to an original vote, the Chairperson shall have a second or casting vote in any case in which the voting is equal.

(4) A member of the Appeals Tribunal shall, as soon as is practicable inform, the Chairperson of any matter in which he or she has, either directly or indirectly, personally or by his or her spouse, partner, business associate or company, any pecuniary or business interest and that member shall take no part, directly or indirectly, in any hearing, deliberation or decision by the Appeals Tribunal on that matter.

(5) The decisions of the Appeals Tribunal shall be authenticated by the signature of the Chairperson and the Secretary.

(6) Subject to the provisions of this paragraph, the Appeals Tribunal shall have the power to regulate their own proceedings.

5.

A member of the Appeals Tribunal shall not, either directly or indirectly, except in the performance of a function or duty under or in connection with this or any other written law or as required by any other legal duty make a record of or divulge or communicate to any person information concerning the affairs of another person which he or she acquired by reason of their office under or for the purposes of this Act.

6.

The validity of any proceedings of the Appeals Tribunal shall not be affected by any vacancy in its membership or by any defect in the appointment of any of its members.

7.

In this Schedule, "**Chairperson**" includes a person appointed or elected, as the case may be, to act temporarily in the place of the Chairperson.

Schedule 2

(Section 11)

PART 1 ROADS

1. Reservation of land for roads and establishment of public rights of way including public rights of way to and over beaches.
2. Closing or diversion of existing roads and public and private rights of way.
3. Construction of new roads and alteration of existing roads.
4. The line, width, level, construction, access to and egress from and the general dimensions and character of roads, whether new or existing.
5. Providing for and generally regulating the construction or execution of works incidental to the making or improvement of any road, including the construction of bridges, culverts, gullies, open drains, fencing, barriers, shelters, the provision of artificial lighting, and seats and the planting and protecting of grass, trees and shrubs on or adjoining such road.

PART 2 BUILDING AND OTHER STRUCTURES

1. Regulating and controlling, either generally or in particular areas all or any of the following matters:
 - (a) the size and height of building and fences;
 - (b) building lines, coverage and the space around buildings;
 - (c) the objects which may be affixed to buildings;
 - (d) the purposes for and the manner in which buildings may be used or occupied including in the case of dwelling houses, the letting thereof in separate tenements;
 - (e) the prohibition of building or other operations on any land, or regulating such operations.
2. Regulating and controlling the design, colour and materials of buildings and fences.
3. Allocating any particular land, or all land in any particular area, for buildings of a specified class or classes or prohibiting or restricting either permanently or temporarily, the making of any building or any particular class or classes of buildings on any specified land.
4. Limiting the number of buildings or the number of buildings of a specified class which may be constructed, erected or installed, on, in or under any area.

PART 3 COMMUNITY PLANNING

1. Providing for the control of land by zoning or designating specific uses.
2. Regulating the layout of housing areas including density, spacing, grouping and orientation of houses in relation to roads, open spaces and other buildings.
3. Determining the provision and siting of community facilities including shops, schools, churches, meeting halls, play centres and recreation grounds in relation to the number and siting of houses.

PART 4 AMENITIES

1. Allocation of lands as open spaces whether public or private.
2. Allocation of land for burial grounds and crematoria.

3. Allocation of lands—
 - (a) for communal parks;
 - (b) for game and bird sanctuaries;
 - (c) for the protection of marine life;
 - (d) for national parks and environmental protected areas.
4. Preservation of buildings, caves, sites and objects of artistic, architectural, archaeological, historical, or cultural interest.
5. Preservation or protection of forests, woods, trees, shrubs, plants and flowers, river courses and gullies.
6. Protection of the coastal zone, zoning of marine parks, special resource and special use areas.
7. Prohibiting, restricting or controlling, either generally or in particular places, the exhibition, whether on the ground, or any building or any temporary erection, whether on land or in water, or in the air, of all or any particular forms of advertisement or other public notices.
8. Preventing, remedying or removing injury to amenities arising from the ruinous or neglected condition of any building or fence, or by the objectionable or neglected condition of any land attached to a building or fence or abutting on a road or situate in a residential area.
9. Prohibiting, regulating and controlling the deposit or disposal of waste materials and refuse, the disposal of sewage and the pollution of rivers, lakes, ponds, gullies beaches and the seashore.

PART 5 PUBLIC SERVICES

Facilitating the establishment, extension or improvement of works by statutory or other undertakers in relation to power, lighting, water supply, telecommunications, sewerage, drainage, sewage disposal, refuse disposal or other public services.

PART 6 TRANSPORT AND COMMUNICATIONS

1. Facilitating the establishment, extension or improvement of systems of transport whether by land, water or air.
2. Allocating sites for use in relation to transport, and the reservation of land for that purpose.
3. Providing for the establishment, extension or improvement of telegraphic, telephonic, wireless or radar communication, the allocating of sites for use in relation to such communication, and the reservation of land for that purpose.

PART 7 MISCELLANEOUS

1. Providing for and regulating the making of agreements for the purpose of a development plan by the Minister with a local authority or with owners and other persons, and by a local authority with such persons and by such persons with one another.
2. Sub-division of land and in particular, but without restricting the generality of the foregoing—
 - (a) regulating the type of development to be carried out and the size and form of plots;

- (b) requiring the allocation of land for any of the public services referred to in Part 5 or for any other purposes referred to in this Schedule for which land may be allocated;
 - (c) prescribing the character and type of public services or other works which shall be undertaken and completed by any applicant for permission to sub-divide as a condition of the grant of such permission;
 - (d) co-ordinating the sub-division of contiguous properties in order to give effect to any scheme of development appertaining to such properties.
3. Making any provisions necessary for—
- (a) adjusting and altering the boundaries and areas of any towns;
 - (b) enabling the establishment of satellite towns and new towns;
 - (c) effecting such exchanges of land or cancellation of existing subdivision plans as may be necessary or convenient for the purposes aforesaid.

Schedule 3

(Section 18)

PERMITTED DEVELOPMENT

- (a) Garden huts, other than garages, in approved residential areas and not used for human habitation or for the conduct of any activity of a commercial nature.
- (b) Gates, fences and walls not exceeding 4 feet in height.
- (c) Agricultural out buildings not used for human habitation and enclosures and works on agricultural holdings that are requisite for or incidental to the use of land for the purposes of agriculture not including sub-division of land for agricultural purposes.
- (d) Repairs to roads, bridges and harbour installations.
- (e) Repairs to services
- (f) Internal alterations to buildings not involving changes to the basic structure or facade of the buildings.
- (g) Subject to any requirements of the Regulations prescribing minimum building setback, site coverage, and building height limitations, the enlargement or improvement of an existing single dwelling house provided that the floor of the enlargement or improvement does not exceed $\frac{1}{3}$ of the floor area of the existing single dwelling house.

(Amended by Act 3 of 2005)

Schedule 4

(Section 22)

MATTERS FOR WHICH ENVIRONMENTAL IMPACT ASSESSMENT IS ORDINARILY REQUIRED

1. Hotels of more than the number of rooms specified in the Regulations;
2. Sub-divisions of more than the number of plots specified in the Regulations;
3. Residential development of more than the number of units specified in the Regulations;

4. Any industrial plant which in the opinion of the Head of the Physical Planning and Development Division is likely to cause significant adverse environmental impact;
5. Quarrying and other mining activities;
6. Marinas;
7. Land reclamation, dredging and filling of ponds;
8. Ports;
9. Dams and reservoirs;
10. Hydro-electric projects and power plants;
11. Desalination plants;
12. Water purification plants;
13. Sanitary land fill operations, solid waste disposal sites, toxic waste disposal sites and other similar sites;
14. Gas pipeline installations;
15. Any development projects generating or potentially generating emissions, aqueous effluent, solid waste, noise, vibration or radioactive discharges;
16. Any development involving the storage and use of hazardous materials;
17. Coastal zone developments;
18. Development in wetlands, marine parks, national parks, conservation areas, environmental protection areas or other sensitive environmental areas.

CHAPTER 5.12
PHYSICAL PLANNING AND DEVELOPMENT ACT

SUBSIDIARY LEGISLATION

No Subsidiary Legislation
